

HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHARLES G. MOORE and KATHLEEN F.
MOORE,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Civil Action No. 2:19-cv-01539 JCC

**STIPULATED MOTION TO FILE
OVER-LENGTH BRIEFS AND SET
EXTENDED BRIEFING SCHEDULE**

Note on Motion Calendar: March 26, 2020

Pursuant to LCR 7(f) and Fed. R. Civ. P. 6(b), the undersigned parties hereby request approval to file over-length briefs respecting Plaintiffs' cross-motion for summary judgment, and to modify the briefing schedule. The parties request that the United States be allowed ten (10) additional pages for its combined reply in support of its motion to dismiss and response in opposition to Plaintiffs' motion for summary judgment, for a total of 34 pages, and Plaintiffs allowed half that (17 pages) for their reply. The parties also request that the Court set May 11, 2020, as the deadline for the United States to file its combined reply/response, and June 1, 2020 as the deadline for Plaintiffs to file their reply. The reasons are as follows:

1 1. The Complaint presents novel legal issues, namely, constitutional challenges to the
2 “mandatory repatriation tax” under the Tax Cuts and Jobs Act of 2017. Dkt. No. 1.

3 2. On February 20, the Court granted the parties’ stipulated motion for leave to file
4 overlength motions and briefs and set extended briefing schedule. Dkt. No. 25. The Order afforded
5 the United States an additional ten (10) pages for its motion to dismiss, for a total of thirty-four
6 (34) pages, and by operation of Local Rule 7(f) afforded the Plaintiffs an equal number of pages
7 for their opposition and the United States half that number of pages for its reply. In addition, the
8 Order provided that Plaintiffs’ opposition be filed no later than March 27 and that the United
9 States’ reply be filed no later than April 27.

10 3. The United States filed its motion to dismiss on February 24. Dkt. No. 26. Plaintiffs
11 intend to file a combined response in opposition and cross-motion for summary judgment.

12 4. The typical page limit for a brief in opposition to a motion for summary judgment
13 is 24 pages. LCR 7(e)(3).

14 5. The nature of the legal arguments—not to mention the policy impact of a statute
15 potentially being invalidated—justifies allowing the United States ten (10) additional pages for its
16 combined reply and response brief, and Plaintiffs half that number of extra pages for their reply.
17 *See* LCR 7(f)(4). The Complaint raises two constitutional challenges to the “mandatory
18 repatriation tax” (26 U.S.C. § 965): an Apportionment Clause challenge and a Due Process Clause
19 (retroactivity) challenge. Dkt. No. 1 at 6-8. As far as the parties know, this is the first case in any
20 court to raise either of those issues with respect to the “mandatory repatriation tax.”

21 6. In addition, good cause exists under Rule 6(b) for an extended briefing schedule.

22 7. The Court has, in light of the issues presented by this case, already afforded the
23 parties additional time for briefing on the United States’ motion to dismiss. Hearing Plaintiffs’
24 cross-motion for summary judgment in tandem with the United States’ motion to dismiss increases
25 the likelihood that the Court will be able to dispose of this case through early motion practice,
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1 thereby obviating the need for discovery or trial. Judicial economy is served by addressing the
2 legal issues presented here upfront.

3 8. Due to the nature of the legal arguments involved, the parties need additional time
4 to research the relevant issues and ensure they can fully brief the Court.

5 9. Furthermore, the briefing on both sides will require extra scrutiny due to the nature
6 and policy impact of this case, in particular on the government's end.

7 10. And, in addition, efforts to mitigate the COVID-19 pandemic are requiring
8 attorneys for both sides to telework and have generally extended the time required to prepare and
9 obtain approval of the parties' filings.

10 11. Accordingly, the parties believe it is reasonable to allow brief extensions of time
11 for responsive briefing.

12 WHEREFORE, the United States, Charles Moore, and Kathleen Moore respectfully
13 requests that the Court grant ten (10) additional pages for the United States' combined reply in
14 support of its motion to dismiss and response in opposition to Plaintiffs' motion for summary
15 judgment, and set an extended briefing schedule with the combined reply/response due May 11,
16 2020, and Plaintiffs' reply due June 1, 2020.

DATED this 26th day of March, 2020.

BAKER & HOSTETLER LLP

s/ James R. Morrison

James R. Morrison, WSBA No. 43043
999 Third Avenue
Suite 3600
Seattle, WA 98104-4040
Tel: 206.332.1380
FAX: 206.624.7317
E-mail: jmorrison@bakerlaw.com

Andrew M. Grossman*
David B. Rivkin, Jr.*
Jeffrey H. Paravano*
Katherine L. McKnight*
Nicholas C. Mowbray*
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304
Tel: (202) 861-1500
Fax: (202) 861-1783
E-mail: agrossman@bakerlaw.com
E-mail: drivkin@bakerlaw.com
E-mail: jparavano@bakerlaw.com
E-mail: kmcknight@bakerlaw.com
E-mail: nmowbray@bakerlaw.com

COMPETITIVE ENTERPRISE INSTITUTE

Sam Kazman*
Devin Watkins*
1310 L Street NW, 7th Floor
Washington, D.C. 20005
Tel: (202) 331-1010
Fax: (202) 331-0640
Email: Sam.Kazman@cei.org
Email: Devin.Watkins@cei.org

Attorneys for Plaintiffs
* Admitted *pro hac vice*.

RICHARD E. ZUCKERMAN

Principal Deputy Assistant Attorney General

s/ Jennifer Y. Golden

JENNIFER Y. GOLDEN
Trial Attorney
KARI M. LARSON
Senior Litigation Counsel
U.S. Department of Justice, Tax Division
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044
Tel: 202-616-3822 (Larson)
Tel: 202-307-6547 (Golden)
Fax: 202-307-0054
Kari.M.Larson@usdoj.gov
Jennifer.Y.Golden@usdoj.gov

Attorneys for Defendant United States of America

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by
CM/ECF upon the following:

Kari M. Larson
Jennifer Y. Golden
U.S. Department of Justice
Tax Division, Western Region
P.O. box 683, Ben Franklin Station
Washington, D.C. 20044
Ph: 202-616-3822 (Larson)
Ph: 202-307-6547 (Golden)
Fax: 202-307-0054
Email: kari.m.larson@usdoj.gov; jennifer.y.golden@usdoj.gov

Attorneys for Defendants

DATED this 26th day of March, 2020 at Seattle, Washington.

s/ Jennifer Hickman
Jennifer Hickman